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SUBJECT: 2005-2006 INTERNATIONAL NARCOTICS CONTROL STRATEGY
REPORT (INCSR) FOR PANAMA: PART II, FINANCIAL CRIMES AND
MONEY LAUNDERING

REF: State 210324

Panama

The economy of Panama is 80% services, 14% industry and 6% agriculture. The services sector is comprised mainly of maritime transportation, commerce, tourism, banking, and financial services. Panama is a major drug-transit country and particularly vulnerable to money laundering because of its proximity to major drug-producing countries, sophisticated international banking sector, U.S. dollar-based economy, prevalence of legalized gambling, and the Colon Free Zone (CFZ). The CFZ serves as an originating or transshipment point for goods purchased with narcotics proceeds (mainly dollars obtained in the U.S.) through the Colombian Black Market Peso Exchange. Despite significant progress in strengthening its anti-money laundering regime, Panama must remain vigilant to the threat that money laundering continues to pose to the stability of the country's legitimate financial institutions.

Panama has the second highest (Hong Kong is first) number of offshore-registered companies (at present, approximately 350,000). Panama's large offshore financial sector includes international business companies, offshore banks (currently 34), captive insurance companies (corporate entities created and controlled by a parent company, professional association, or group of businesses), and fiduciary companies. Transfer of negotiable (bearer) bonds is another potential vulnerability that could be exploited by money launderers. The high volume of trade occurring through the CFZ (there are approximately 2,600 businesses established in the Zone) presents opportunities for trade-based money laundering to occur.

Law No. 41 (Article 389) of October 2, 2000, amended the Penal Code by expanding the predicate offenses for money laundering beyond narcotics-trafficking, to include criminal fraud, arms trafficking, trafficking in humans, kidnapping, extortion, embezzlement, corruption of public officials, terrorism, and international theft or trafficking of motor vehicles. Law No. 41 establishes a punishment of 5 to 12 years imprisonment and a fine.

Law No. 42 of October 2, 2000, requires financial institutions (banks, loan companies, fiduciary companies, money exchangers, credit unions, savings and loans associations, stock exchanges and brokerage firms, and investment administrators) to report to the Unidad de Analisis Financiero (UAF), Panama's Financial Intelligence Unit (FIU), currency transactions in excess of \$10,000 and suspicious financial transactions. Law 42 also mandates that casinos, CFZ businesses, the national lottery, real estate agencies and developers, and insurance/reinsurance companies report to the UAF currency or quasi-currency transactions that exceed \$10,000. Furthermore, Law 42 requires Panamanian fiduciary companies to identify to the Superintendent of Banks the real and ultimate beneficial owners of trusts.

In June 2003, the Panamanian Legislative Assembly approved the Financial Crimes Bill (Law No. 45 of June 4, 2003), which established criminal penalties of up to ten years in prison and fines of up to one million dollars for financial crimes that undermine public trust in the banking system, the financial services sector, or the stock market. The penalties criminalized a wide range of activities related to financial intermediation, including the following: illicit transfers of monies, accounting fraud, insider trading, and the submission of fraudulent data to supervisory authorities. Law No. 1 of January 5, 2004, added crimes against intellectual property as a predicate offense for money laundering.

Also in June 2003, the Panamanian Legislative Assembly approved Law No.48 that regulates money remitters. On May 25, 2005, the Panamanian Legislative Assembly approved Law No 16 that regulates activities of pawnshops and established the obligation to report suspicious transactions in these businesses to the UAF.

Executive Decree 213 of October 3, 2000, amending Executive Decree 16 of 1984 relating to trust operations, provides for the dissemination of information related to trusts to appropriate administrative and judicial authorities. Furthermore, in October 2000, Panama's Superintendent of Banks issued Agreement No. 9 of 2000 that defines requirements that banks must follow for identification of customers, exercise of due diligence and retention of transaction records. It also increased the number of inspections of finance companies it conducted. In 2005, the Superintendent of Banks modified that Agreement, in order to include fiduciary companies within the measures of prevention of illegal use and to bring the Banking Center into line with the highest international standards, thus thoroughly complying with the FATF 40 New Recommendations.

The Ministry of Commerce and Industries, by means of the Resolutions No. 327 and 328 of August 9, 2004, sought to prevent operations of promotional companies, real estate agents, and money remittance houses being used to commit the crime of money laundering and the financing of the terrorism. As a result, these companies are now compelled to identify their clients, to declare cash transactions over the threshold of Ten Thousand US Dollars and to report suspicious transactions to the UAF. The Autonomous Panamanian Cooperative Institute established a specialized unit for the supervision of loans and credit cooperatives regarding compliance with the requirements of Law 42. The National Securities Commission carried out numerous training sessions and workshops for its personnel and regulated entities. The Colon Free Zone Administration prepared and issued a procedures manual for the users of the CFZ, outlining their responsibilities regarding prevention of money laundering and requirements under Law 42. The UAF continues efforts to raise the level of compliance for reporting suspicious financial transactions, particularly by non-bank financial institutions and CFZ businesses. In 2004, the Securities Commission announced that it would begin investigating suspicious activity.

With support from the Inter-American Development Bank, the GOP is implementing a "Program for the Improvement of the Transparency and Integrity of the Financial System." This Transparency Program aims, through enhanced communication and information flow, training programs, and technology, at strengthening the capabilities of those government institutions responsible to prevent and combat financial crimes and terrorist financed activities.

Overall 1500 employees from 14 institutions have benefited from this training, including representatives of the private sector, stock markets, credit unions, bank compliance officials, etc. In addition, with the help of this program Panama has launched an educational campaign to prevent money laundering and terrorist financing. The program began in the year 2002 and is intended to raise consciousness of citizens regarding these crimes. In 2004, this program included a training program for the Gaming Control Board and a Hemispheric Congress on Prevention of Money Laundering.

In 2005, a pilot program was developed for money laundering prevention a training, which was financed by the IBD and executed by GAFIC. Over 5,000 public and private sector employees were trained through this program. Participants included representatives from banks, credit unions, real estate agencies, stockbrokers, insurance companies, Colon Free Trade Zone companies, financial institutions, and money order companies. The U.S. government also provided anti-money laundering training in 2005, through the Departments of Justice and Homeland Security.

By means of Law No. 22 of 9 of May of 2002, the Republic of Panama adopted the UN International Convention for the Suppression of the Financing of Terrorism; Also, in 2002, the Institute of Autonomous Panamanian Cooperatives, UAF, and the U.S. Embassy Narcotics Assistance Section cosponsored a roundtable on money laundering that offered practical training to financial institutions to assist them in meeting the reporting requirements under Law No. 42

To increase GOP interagency coordination, the UAF and Panamanian Customs have established an office at the Tocumen International Airport to expedite the entry of customs currency declaration information into the UAF's database. This has enabled the UAF to begin more timely investigations. Panamanian Customs continued a program at Tocumen International Airport to deter currency smuggling by seizing and forfeiting all undeclared funds in excess of \$10,000 from arriving passengers. Bulk cash shipments, including through Tocumen Airport, continue to be of great concern, with smugglers often under-declaring the amount of cash being brought into the country. Executive Order No. 163 of October 3, 2000, which amended the June 1995 decree that created the UAF, also allows the UAF to provide information related to possible money laundering directly to the Office of the Attorney General

for investigation. Panama has brought cases for domestic prosecution, and the UAF routinely transfers cases to the PTJ's Financial Intelligence Unit ("Unidad de Inteligencia Financiera" or "UIF") for investigation. During 2004 the Financial Fraud Prosecutor's office investigated 2,459 cases related to financial crimes, 86 of which led to a conviction. These included credit card fraud and fraud involving banking institutions. Since money laundering was criminalized in 2000 and up to May 2005, there have been 10 investigations of money laundering and 1 conviction. Seven of those cases were tried to a conclusion, 1 case remains active and 2 cases were dismissed. The average prosecution time for Money Laundering cases is 18.9 months.

In 2005, Panamanian authorities cooperated with Nicaraguan prosecutors in their money laundering case against former Nicaraguan President Arnoldo Aleman. Also during 2004-2005, Government Of Panama investigators are looking into corruption allegations made against former high-level Costa Rican and Peruvian government officials.

During November of 2005, Panamanian authorities initiated their takedown of Operation Nino, which resulted in the arrest of 12 defendants (all either Colombian or Mexican and four of which were Lawyers) and seizure of over 1 million USD as well as a cache of small arms weapons. This case was initiated in late 2004, when Mexican and Colombian-based narcotics traffickers solicited a Panamanian Customs Inspector to facilitate the smuggling of bulk currency into Panama. The Fiscalia/PTJ vetted unit initiated the investigation in conjunction with Panama Customs, documenting the entry of over 13 million dollars into Panama over the course of 8 months. This case was significant because it involved multiple agencies, utilized Panamanian Undercover Laws, utilized new money laundering legislation, and targeted bulk currency.

The GOP identified the combating of money laundering as one of five goals in its five-year National Drug Control Strategy issued in 2002. The Strategy commits the GOP to devote \$2.3 million to anti-money laundering projects, the largest being institutional development of the UAF. The UAF currently maintains inter-institutional cooperation agreements with the Attorney General's Office, the Superintendent of Banks, and has signed a cooperation agreement with the Public Registry of Panama.

Decree No. 22 of June 2003, gave the Presidential High Level Commission against Narcotics Related Money Laundering responsibility for combating terrorist financing. Law No. 50 of July 2003 criminalizes terrorist financing and gives the UAF responsibility for prevention of this crime. There are no legal impediments to the GOP's ability to prosecute or extradite suspected terrorists. Panama Public Force (PPF) and the judicial system have limited resources to deter terrorists, due to insufficient personnel and lack of expertise in handling complex international investigations. On January 18, 2003, the GOP entered into a border security cooperation agreement with Colombia, and also increased funds to the PPF to help secure the frontier. In response to United States efforts to identify and block terrorist-related funds, the GOP continues to monitor suspicious financial transactions.

Also, the GOP created the Department of Analysis and Study of Terrorist Activities. This department is tasked with working with the United Nations and the Organization of American States to investigate transnational issues, including money laundering. Panama has an implementation plan for compliance with the Financial Action Task Force (FATF) Forty Recommendations on Money Laundering and its Special Recommendations on Terrorist Financing.

Panama and the United States have a Mutual Legal Assistance Treaty that entered into force in 1995. The GOP has also assisted numerous countries needing help in strengthening their anti-money laundering programs, including Guatemala, Costa Rica, Russia, Honduras, and Nicaragua. Panama also hosted the Ninth Hemispheric Congress on the Prevention of Money Laundering up to December 2005. Executive Decree No. 163 authorizes the UAF to share information with FIUs of other countries, subject to entering into a memorandum of understanding or other information exchange agreement. The UAF has signed more than 37 memoranda of understandings with FIUs, including the U.S. FIU, FinCEN.

Panama is active in the multilateral Black Market Peso Exchange Group Directive. In March 2002, the GOP signed the cooperation agreement issued by the working group as part of a regional effort against the black market system. Panama is a member of the Organization of American States Inter-American Drug Abuse Control Commission (OAS/CICAD), and was the former Chair of the Caribbean Financial Action Task Force during October 2004-October 2005 and the Central American Council of Superintendents of Banks, Insurance Companies and Other Financial Institutions. Panama is the

current Vice President of the Association of Supervisors of Banks of the Americas (ASBA), from 2005 to 2007. Panama is also a member of the Offshore Group of Banking Supervisors, and the UAF is a member of the Egmont Group. Panama is a party to the 1988 UN Drug Convention. Panama is a signatory to 11 of the UN terrorism conventions and protocols. During 2002, the GOP became a party to the UN International Convention for the Suppression of the Financing of Terrorism, and in 2004, of the UN Convention against Transnational Organized Crime.

In May 2005, the International Monetary Fund (IMF) held an Assessment of Anti- Money Laundering and Combating of Terrorism under the new Methodology of the 40 + 9 Recommendations of the Financial Action Task Group (FATF), which shows Panama's advances in this area. In April 2005, a team from Fincen and OTA visited Panama and met with officials responsible for regulating and enforcing anti-money laundering laws.

The Government of Panama should continue its regional assistance efforts. It should also continue implementing the significant reforms it has undertaken to its anti-money laundering regime, in order to reduce the vulnerability of Panama's financial sector and to enhance Panama's ability to investigate and prosecute financial crime, money laundering, and potential terrorist financing.

ARREAGA